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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,520

09/12/2003

Louis Borgeat

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05/23/2005

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EXAMINER

ARK, DARREN W

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/660,520

Applicant(s)

BORGEAT, LOUIS

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 4-7, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 2, the phrase "the reel of the reel and reel seat assembly" renders the claim vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Clewes et al. 5,992,717.

Clewes et al. discloses a reel and reel seat assembly (of 100, 104); a hollow cylinder (32) with a mounting foot attached thereto (34, 36), the mounting foot being releasably secured to the reel seat base of the rod (via 32), the reel and reel seat being

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releasably mounted to the cylinder with at least a portion of the reel and reel seat assembly inserted therein (see Fig. 1).

5. Claims 1, 2, 6, 7, 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bell 2,995,855.

Bell discloses a reel and reel seat assembly (2, 26); a hollow cylinder (13) with a mounting foot (12, 14) releasably secured to the reel seat base of the rod (when the rod is mounted in 13 and via 13), the reel and reel seat assembly releasably mounted to the cylinder with at least a portion of the reel and reel seat assembly inserted therein (see Fig. 3).

In regard to claim 9, Bell discloses at least one locking ring (14a or 14b) and at least one locking fastener (14c).

6. Claim 1, 7, 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fitzpatrick 5,732,500.

Fitzpatrick discloses a reel and reel seat assembly (reels and surfaces upon which reels rest in Fig. 4); a hollow cylinder (8, 10) with a mounting foot (2) releasably secured to the reel seat base of the rod (see Figs. 4, 5), the reel and reel seat assembly being releasably mounted to the hollow cylinder with at least a portion of the reel and reel seat assembly inserted therein (see Figs. 4, 5)

In regard to claim 7, Fitzpatrick discloses a mounting foot (2) fixed to the hollow cylinder (8, 10 via 6).

In regard to claim 9, Fitzpatrick discloses mounting foot being secured by contact with at least one ring and at least one locking fastener (see Figs. 2-5).

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7. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bull 3,556,365.

Bull discloses a reel and reel seat assembly (of 16); a hollow cylinder (14) with a mounting foot (portion of 14 between 22 & 32) which is releasably secured to the reel seat base of the rod (via 14, 18), the reel and reel seat assembly being releasably mounted to the cylinder with at least a portion of the reel and reel seat assembly inserted therein (see Fig. 2).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 6, 7, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clewes et al. 5,992,717 in view of Bell 2,995,855.

Clewes et al. does not disclose at least one insertion opening in the lateral side of the cylinder having transverse and longitudinal portions. Bell discloses at least one insertion opening (20-22) in the lateral side having transverse (21, 22) and longitudinal (20) portions wherein a reel post (26) of a spinning reel serves to interlock the rod (23) with the wall of the receiver (13). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the at least one insertion opening with transverse and longitudinal portions in the lateral side of the cylinder of

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Clewes et al. in order provide means for locking the rod and reel relative to a portion of the cylinder so as to prevent inadvertent displacement of the rod from the cylinder in a longitudinal direction.

In regard to claim 9, Clewes et al. discloses at least one ring (27, 31) and a locking fastener (29, 33).

10. Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clewes et al. 5,992,717 in view of Bell 2,995,855 as applied to claim 2 above, and further in view of Schwanke 2,598,021 or Young 2,452,279.

Clewes et al. and Bell do not disclose resilient means disposed inside the cylinder at the closed proximal end which is compressed when inserting the reel and reel seat assembly inside the reel seat holding device. Schwanke and Young each disclose resilient means (14 OR 8) disposed inside the cylinder at the closed proximal end (11 OR 1) which is compressed when inserting the reel and reel seat assembly inside the reel seat holding device. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ the resilient means of Schwanke or Young in the closed end of the cylinder of Clewes et al. and Bell in order to provide means for biasing the rod in the cylinder against a transverse portion to prevent lateral movement of the rod from the desired position inside the cylinder.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clewes et al. 5,992,717 in view of Bell 2,995,855 as applied to claim 2 above, and further in view of Gattuso et al. 5,632,427.

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Alternatively, Clewes et al. and Bell do not disclose the transverse portion creating a hook shape. Gattuso et al. discloses a transverse portion (14, 16) close to an open distal end (8) forming a hook shape (J-shape). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to employ the transverse portion with a hook shape of Gattuso et al. in the cylinder of Clewes et al. and Bell in order to provide a transverse portion which makes it more difficult for the rod and reel to enter to longitudinal portion and become displaced from the cylinder under longitudinally directed forces.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell 2,995,855.

Bell does not disclose the cylinder made of plastic or metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cylinder out of plastic or metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because plastic and metal are readily available materials that can be made into many different configurations and sizes and can also withstand rough handling during use. *In re Leshin*, 125 USPQ 416.

### ***Response to Arguments***

13. Applicant's arguments filed 3/30/2005 have been fully considered but they are not persuasive.

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In regard to applicant's argument that "Clewes et al... clearly shown on FIG. 1, the part of fishing rod 100... is not inserted into the case 12", the Examiner contends that the reel seat assembly has a portion on the rod 100 which is positioned behind or below the reel and therefore meets the limitation. Although not illustrated, the mounting foot of the reel on the rod 100 extends within the cylinder.

In regard to applicant's argument that "Clewes et al... are not conceived for releasably secure the case 12 to a reel seat base of a fishing rod, but... to the hip plate 12...", the Examiner contends that the claim is not written in any manner which defines over the Clewes et al. patent and that at present the claim merely recites that the parts are releasably mounted to each other which in no way sets forth any specific structural interrelationship among the parts of the desired invention.

In regard to applicant's arguments concerning "Bell... case 13 does not include means for mounting the case 13 to the fishing rod 100...", the Examiner contends that the claim is not written in any manner which defines over the Bell patent and that at present the claim merely recites that the parts are releasably mounted to each other which in no way sets forth any specific structural interrelationship among the parts of the desired invention..

In regard to applicant's argument that "Fitzpatrick... as clearly shown in FIG. 4, the bridge 6 is a rod on which the mounting feet of the reels are secured with the shoes 8, 10, 12, 14... not conceived for insertion of at least a portion of the reel and reel seat assembly...", the Examiner contends that the reel seat assembly was not particularly recited or claimed to define over the Fitzpatrick patent. Furthermore the reel seat



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assembly in Fitzpatrick includes the portions below the mounting feet of the reels shown in Figs. 2-5 of Fitzpatrick upon which the mounting feet of each of the two reels rests.

In regard to applicant's argument that "Bull... case 14 cannot be released without unscrewing the bolt...", the Examiner contends that the manner of operation of the Bull patent is not the issue at hand. Instead, the issue at hand is whether the claims of the desired invention define over the structure disclosed by the Bull patent. Applicant has not recited the structure of the desired invention in a manner which overcomes the interpretation of the Bull patent. The fact that case 14 can be removed via the mounting bolt supports the fact that it is indeed capable of being releasably mounted as recited.

In regard to applicant's arguments regarding the combination of Clewes et al. and Bell et al., the Clewes et al. patent was relied upon for its basic disclosure of the fishing rod with reel and reel seat assembly and hollow cylinder with mounting foot while the Bell et al. patent was merely relied upon for its particular hollow cylinder structure which provides means for releasably locking a reel and reel seat assembly therein through the use of an insertion opening formed through the sidewall of the cylinder.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA